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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, ~~1952~~ 1953

No. ~~8~~ 1

OLIVER BROWN, MRS. RICHARD LAWTON, MRS.
SADIE EMMANUEL, ET AL., APPELLANTS,

vs.

BOARD OF EDUCATION OF TOPEKA, SHAWNEE
COUNTY, KANSAS, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF KANSAS

FILED NOVEMBER 19, 1951

Probable jurisdiction noted June 9, 1952

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INDEX

	Original	Print
Record from U.S.D.C. for the District of Kansas.....	1	1
Caption (omitted in printing) ..	a	
Amended complaint	1	1
Motion for a more definite statement and to strike....	8	8
Docket entry—Motion denied, except as to paragraph 8, which is to be amended.....	11	10
Amendment to paragraph 8 of amended complaint....	12	10
Answer to amended complaint as amended in para- graph 8 thereof.....	13	11
Separate answer of the State of Kansas.....	17	14
Transcript of proceedings of pre-trial conference....	19	15
Appearances	19	15
Colloquy between court and counsel.....	21	16
Reporter's certificate (omitted in printing) ..	98	

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ii

INDEX

Record from U.S.D.C. for the District of Kansas—Continued

	Original	Print
Order correcting transcript of record	99	62
Transcript of proceedings, June 25, 1951	105	63
Caption	106	63
Colloquy between Court and counsel	107	63
Offers in evidence	108	64
Testimony of Arthur H. Saville	115	68
Kenneth McFarland	121	72
Lena Mae Carper	136	81
Katherine Carper	141	85
Oliver L. Brown	145	88
Darlene Watson	155	94
Alma Jean Galloway	158	96
Sadie Emanuel	160	97
Shirley Mae Hodison	164	100
James V. Richardson	167	102
Lucinda Todd	169	103
Marguerite Emmerson	171	104
Zelma Henderson	173	105
Silas Hardwick Fleming	176	107
Hugh W. Speer	182	111
James H. Buchanan	233	143
R. S. B. English	248	153
Wilbur B. Brookover	263	162
Louisa Holt	272	168
John J. Kane	283	175
Bettie Belk	291	180
Dorothy Crawford	303	187
Clarence G. Grimes	309	191
Thelma Mifflin	317	196
Kenneth McFarland (Recalled)	331	205
Ernest Manheim	342	213
Colloquy between court on counsel	347	216
Opening argument on behalf of plaintiff	349	217
Argument on behalf of defendants	363	225
Closing argument on behalf of plaintiff	372	231
Colloquy between Court and counsel	377	233
Reporter's certificate (omitted in printing)	384	
Clerk's certificate (omitted in printing)	385	
Opinion, Huxman, J.	386	238
Findings of fact and conclusions of law	393	244
Decree	397	247
Petition for appeal	398	248
Assignment of errors and prayer for reversal	400	249
Order allowing appeal	403	251
Citation on appeal (omitted in printing)	405	
Note re cost bond	406	252
Statement required by paragraph 2 rule 12 of the rules of the Supreme Court (omitted in printing)	407	

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TARLTON LAW LIBRARY

INDEX

iii

Record from U.S.D.C. for the District of Kansas—Continued	Original	Print
Praecipe for transcript. (omitted in printing) . .	412	
Order extending time to file and docket record on appeal	414	253
Clerk's certificate (omitted in printing) . .	415	
Statement of points to be relied upon and designation of parts of record to be printed	416	
Order noting probable jurisdiction	418	254

we will enforce that rule in the morning, but it was understood that about five witnesses would be allowed, and then we would examine the subject, and we are reaching that point, so suppose you call your next witness; that will take us to adjournment time.

JOHN J. KANE, having been first duly sworn, assumed the stand and testified as follows:

Direct examination.

By Mr. Greenberg:

Q. What is your full name?

A. John J. Kane.

[fol. 284] Q. What is your occupation?

A. I am an instructor in Sociology at the University of Notre Dame.

Q. What is your educational background?

A. I have a Bachelor of Arts Degree from St. Joseph's College, a Master of Arts Degree in sociology from Temple University, a Doctor of Philosophy Degree in Sociology from the University of Pennsylvania.

Q. What positions have you held?

A. I was an instructor in sociology at St. Joseph's College about two and a half or three years. I have been instructor in Sociology at the University of Notre Dame for three years.

Q. Have you devoted yourself for any of your professional attention to the field of the impact of racial segregation on the individual?

A. I have done two studies in the general field of prejudices, racial—my major interest in the graduate school was in the field of race relations and ethnic relations.

Q. Mr. Kane, on the basis of your educational experience and your studies, I want you to answer the following hypothetical question: Assume that in the City of Topeka there is maintained a racially segregated school system and that a negro child is compelled to attend a racially segregated school because of his race alone; that if this [fol. 285] system did not exist, he would attend a racially

integrated school, would you say that if all other factors are equal, that he obtains the same educational opportunities at the former school as at the latter?

A. No, I would not.

Q. Now, would you give us the basis for your opinion, Mr. Kane.

A. I would begin with two points: The first one is that the school, with the exception of the home, is the institution that makes the greatest impact on American youth. You see, the school gets the child early in life, keeps him for a number of years, so that day after day, year after year it is transferring attitudes for him. Now, we have some scientific evidence about the effectiveness of the accumulation of materials in this area. For instance, Professor Thurston's work on changing attitudes through motion pictures shows that when one picture was shown to a group of youngsters it had relatively little influence in changing attitudes; two had a little more, but if he worked in series of three, he discovered cumulative evidence was very powerful in changing attitudes. What I am mentioning this for is the fact that the influence of the segregated school, when a negro child day after day, year after year, does have this cumulative effect. Secondly, I would like to point out that one of the things children get out of education besides cer-[fol. 286] tain manual skills, spelling, arithmetic and science, is above all, the formation of attitudes. This is what lasts; this is what continues after the school years, and therefore the attitude they get in the particular schools is of great significance. Now, in a school system in which racial segregation is practiced, you have a day after day accumulation of attitudes that the negro child is inferior because segregation is differentiation and distinction. It means, as Professor Newcomb has pointed out, that one group denies to another group, status, privilege and power and so it is borne in upon a negro boy and girl that they are being differentiated not merely because of skin color or physical characteristics, but because there is something inately inferior or subordinate about them and so most of them begin to learn that certain avenues of vertical mobility are closed to them.

Q. What do you mean by vertical mobility?

A. I mean the opportunity of advancing in the world, moving ahead, having a better job than your father had, more social position, and I would point out to you that this concept is fundamental to the American system of values. This is one of the things that we Americans believe in very intensively, and it is something which is denied to negro children. Furthermore, the philosophy of racial segregation [fol. 287] is supported by rationalizations on the racial myth of inferiority for which we have no adequate scientific evidence. Secondly, segregation cuts down on the communication among people. It erects a barrier. Now, certain barriers will exist whether you have a segregation enforced by law or not, but here's a case where barriers are created and upheld by law. The total effect is to make most of your negro children feel inferior, and I would like to refer to a study that was made by Preston with regard to projected scores on tests. A number of white boys were asked to put down the score they expected to get on a certain test and, when they put down the score, they were told that negro youths had made a higher score. The white boys were allowed to change, and they immediately changed their scores above the negro score. Negro youths were told they were about to take a test and were asked to put down the expected score and, when they put it down, they were told this was higher than the white boys made, and they were asked if they wanted to change it, and they lowered their scores below that of the white group. This is indicative of the expectation of behavior which is engendered in a segregated school among most of your colored students.

Q. Dr. Kane, you mentioned a study that you made.

A. Well—

[fol. 288] Q. —in this field. Could you tell us whether or not that study supports the conclusion which you just stated and describe the study.

A. I studied groups of negro boys, gangs, in West Philadelphia. I think it could be used.

Q. Will you describe what you did in this study.

A. We discovered in this particular area there was a system of social stratification among negroes. The area

was roughly split into two sections, one in which the negroes called the "Tops" and the other which they called the "Bottoms." In the "Tops" you had a high degree of homeownership, negro males there, the fathers had better occupations, larger income and a fairly stable family. The "Bottoms" area you never had any area in which as many as 6% of the negroes owned their homes. You had a relatively unstable family; for the most part they were employed in menial jobs. Now you would think that the "Bottoms" area, as a group, represented the lowest level of negro society, but these negroes themselves made a distinction, and they would point out that there was still a lower group than this, and that was the negro from the south and, if you asked them, they said because of segregated education. Now, I want to point out, whether or not that was true, is quite beside the point because, as W. I. Thomas indicated long ago, if men define situations as [fol. 289] real, they are real in their consequences and this is the attitude the negro group itself held, and, of course, this is the way we form attitudes about ourselves; not only what we think, but what we know or believe other people think about us. So, here again, you have an indication of the inferiority that was engendered because of the segregated school system amongst the immigrants from the south.

Mr. Greenberg: That is all.

Cross-examination.

By Mr. Goodell:

Q. Professor, don't you believe a home which has the child, say the first five years without any—where the school doesn't have him at all, in any case whether he is negro or white, don't you think the child has a great deal to do with attitudes, it's race and towards another race and acceptance, and so forth.

A. You are perfectly correct. As a matter of fact, the home is much more important than the school, if it's an adequate home. Now, I should like to point out, if I may—

Q. That answers my question.

Judge Huxman: You may go ahead and give your explanation. This is an expert witness.

The Witness: I should like to point out that when the home facilities are inadequate, as they are in so many [fol. 290] cases of your poor negro family, then the school becomes increasingly important and, in those cases probably, more important than the home since it is exercising little influence.

Mr. Goodell: I have no further questions.

Judge Huxman: It is now five minutes of adjournment time, and we perhaps could not finish another witness, and I just have an appointment I must keep. So we will suspend at this time.

The court will be in recess until tomorrow morning promptly at 9:30.

(The court then, at 4:25 o'clock p. m., adjourned until 9:30 o'clock a. m., the following day, Tuesday, June 26, 1951.)

[fol. 291] Tuesday, June 26, 1951

(Pursuant to adjournment as aforesaid, the court met, present and presiding as before, and the following proceedings were had:)

Judge Huxman: You may proceed, gentlemen.

Let me inquire of the attorney for plaintiff, how many more of these expert witnesses do you have?

Mr. Carter: Your Honor, we at the present time—we only have one more expert witness to put on.

Judge Huxman: Just one more expert witness.

Do you have any testimony after that or will that conclude your case?

Mr. Carter: We have subpoenaed a number of witnesses, Your Honor, and we are contemplating calling only one other witness to establish one point.

Judge Huxman: All right, you may put on this other witness, expert witness.